

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

THOMAS E. PEREZ, Secretary of Labor,

Plaintiff,

v.

FIRST BANKERS TRUST SERVICES,
INC., et al.,

Defendants.

Civil Action No. 12-4450 (MAS) (DEA)

ORDER & JUDGMENT

This matter arises from the SJP Group, Inc. Employee Stock Ownership Plan's (the "SJP ESOP" or the "Plan") purchase of thirty-eight percent of the outstanding stock of SJP Group, Inc. ("SJP"), a total of 380,000 shares, through trustee Defendant First Bankers Trust Services, Inc. ("FBTS" or "Defendant"), from Vincent DiPano¹ ("DiPano") for \$16 million. Plaintiff Thomas E. Perez,² the Secretary of Labor, United States Department of Labor ("Plaintiff") asserts that FBTS breached its duties of loyalty and prudence, and engaged in a prohibited transaction with respect to the Plan's purchase of DiPano's 380,000 shares. The Court conducted a seventeen-day bench trial, beginning on May 23, 2016, and culminating on September 23, 2016. (ECF Nos. 179-83, 186, 189-92, 199-201, 210, 213-14, 216.) The parties submitted proposed findings of fact and

¹ The Secretary of Labor and DiPano reached a settlement of the Secretary's claims against DiPano pursuant to a partial Consent Judgment and Order, which the Court approved on April 20, 2016. (ECF No. 149.)

² This action was originally commenced by the former Secretary of Labor, Hilda L. Solis. (ECF No. 1.) The caption was subsequently revised to reflect the succeeding, and now former, Secretary of Labor, Thomas E. Perez. Although Thomas E. Perez is no longer the current Secretary of Labor, the Court maintains Thomas E. Perez as Plaintiff in the caption above for the purpose of consistency.

conclusions of law on October 28, 2016 (ECF Nos. 224, 225), and responses on November 15, 2016 (ECF Nos. 226, 227).

Additionally, on September 21, 2016, Plaintiff filed a Motion for Judicial Notice as to the weather conditions near SJP's offices on March 12, 2007. (ECF No. 215.) Defendant responded on September 27, 2016. (ECF No. 217.)

For the reasons set forth in the accompanying Opinion,

IT IS on this 31st day of March 2017, **ORDERED** that:

1. Plaintiff's Motion for Judicial Notice as to the weather conditions near SJP's offices on March 12, 2007 (ECF No. 215) is DENIED.
2. The Court enters judgment in favor of Plaintiff and awards \$9,485,000, plus interest, subject to the appropriate reduction outlined in the Court's April 20, 2016 Final Judgment and Bar Order as to DiPano. (ECF No. 150.)

s/ Michael A. Shipp
MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE